

Message

From: Nieves-Munoz, Waleska [Nieves-Munoz.Waleska@epa.gov]
Sent: 12/17/2018 1:58:15 PM
To: LEE, LILY [LEE.LILY@EPA.GOV]
CC: Rhines, Dale [rhines.dale@epa.gov]; Farrell, Ericka [Farrell.Ericka@epa.gov]; Peterson, Samuel [Peterson.Samuel@epa.gov]; McGhee, Debra [mcghee.debra@epa.gov]
Subject: RE: FYI - Chronicle Investigation: SF health official played a role in shipyard home sales - San Francisco Chronicle

Thank you so muchhh

From: LEE, LILY
Sent: Saturday, December 15, 2018 11:27 AM
To: Nieves-Munoz, Waleska <Nieves-Munoz.Waleska@epa.gov>
Subject: FYI - Chronicle Investigation: SF health official played a role in shipyard home sales - San Francisco Chronicle

<https://www.sfchronicle.com/green/article/Chronicle-Investigation-SF-health-official-13462076.php>

Selling shipyard safety

A key San Francisco public health official helped Hunters Point shipyard developer Lennar assure homebuyers that questions about the toxic site's safety were insignificant

By [Jason Fagone](#) and [Cynthia Dizikes](#)

Chronicle Investigation

Homes continue to be built on Parcel A, adjacent to a Superfund waste site tainted with radioactive substances. | Jessica Christian / The Chronicle

Michael Spencer was about to sign the papers on a million-dollar home at San Francisco's mothballed naval base when he began having second thoughts.

About the series

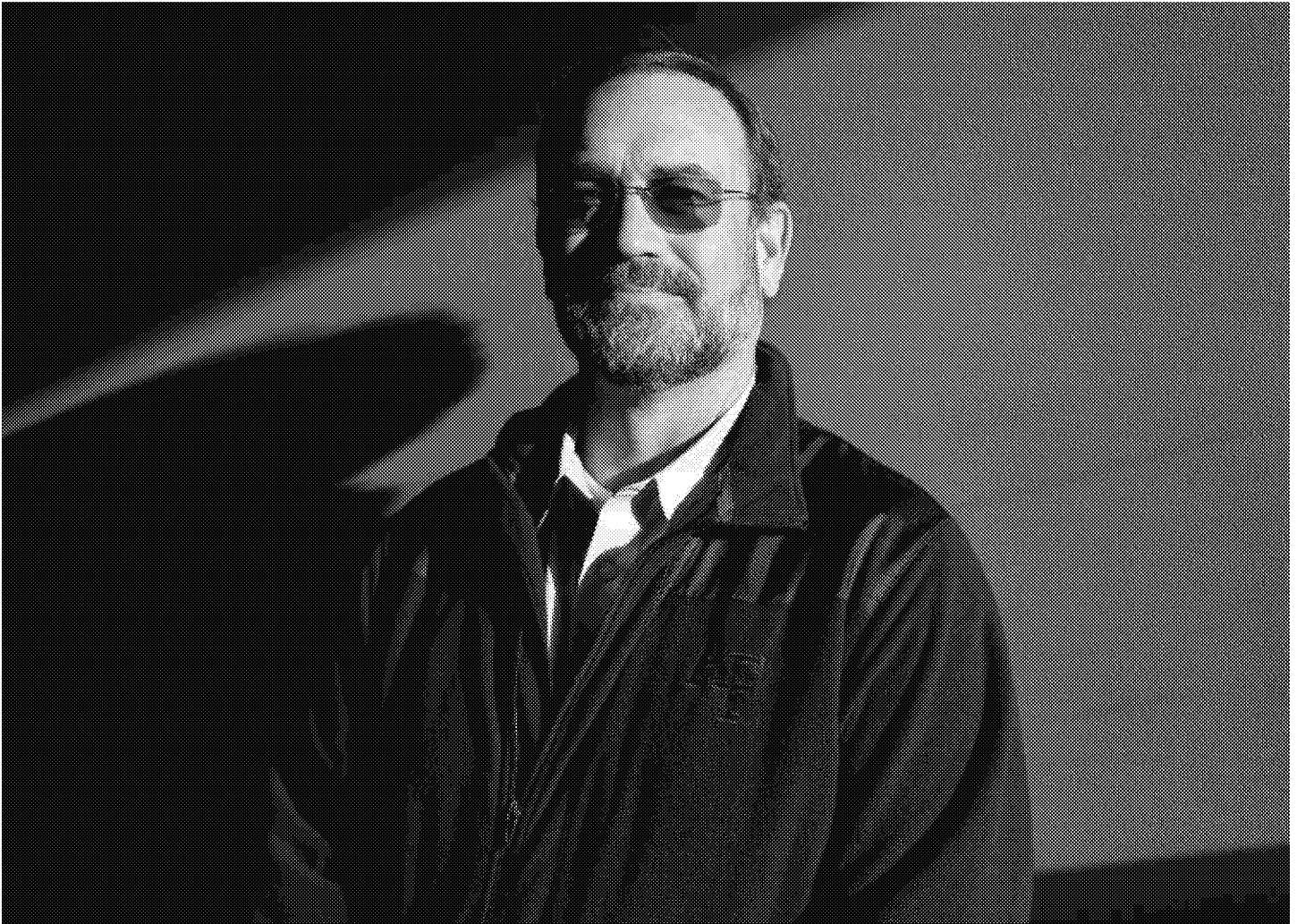
Amid charges of fraud and mismanagement in the cleanup of San Francisco's toxic shipyard, The Chronicle is digging into public records and interviewing people connected to the site, trying to determine what happened and why. Read more of our Dangerous Ground reporting [here](#).

The condominium sat on the first developed piece of the former Hunters Point Naval Shipyard — a hilltop area known as Parcel A. The rest of the shipyard, adjacent to the home parcel, is a Superfund waste site tainted with radioactive substances. And something had gone wrong with the cleanup of that land, Spencer had learned from news reports. [The Navy suspected fraud](#) by a key contractor, Tetra

Tech, raising the possibility that supposedly safe areas might contain hazards — and that thousands of future homes might never get built.

A 50-year-old Air Force veteran, Spencer wanted assurance from the seller, Lennar Homes, that the home site was safe and that construction on the other shipyard parcels would still happen. He didn't want to live on a little island of development surrounded by a wasteland.

“I reached out to my Realtor and said, ‘What the hell’s going on? I’m supposed to be signing tomorrow. I’m not going to spend a million dollars on something that’s not going to have any value.’”



Michael Spencer bought his million-dollar condominium on Parcel A after a city health official's assurances that his home site is safe.

| Jessica Christian / The Chronicle

Spencer ended up talking to his Lennar sales agent, Robert Forbes, who connected him with Garrett Chan, Lennar's vice president of sales and marketing for the shipyard. Chan told Spencer he knew just the right person to speak with him: Amy Brownell, an environmental engineer with the San Francisco health department who has long been the city's main expert on the cleanup.

According to Spencer, Brownell spoke on the phone with him for half an hour to 45 minutes, assuring him that the home site was clean, the contractor fraud wasn't a big deal and that the wider development of the shipyard would continue. Spencer came away feeling that concerns about contamination were "being blown out of proportion by a few people."

"I felt good enough to sign," Spencer said, and he and his wife finalized their purchase within days.

Brownell is the city's point person on the shipyard, having worked on the project for 25 years. Officially, the cleanup is a federal project, managed by the Navy and overseen by the U.S. Environmental Protection Agency, but San Francisco also has important oversight powers. The city health department is supposed to monitor the cleanup and regulate construction activities related to development, ensuring that companies like Lennar aren't exposing workers or the public to hazardous substances. Under the city health code, Brownell has the authority to take enforcement action and issue violations to Lennar, which she has done in the past.

But more recently, Brownell has played a different role. At the request of Lennar officials and sales agents, she has gotten directly involved with home transactions on the mega-developer's \$8 billion shipyard project, reassuring nervous buyers like Spencer through phone calls and email exchanges.



Photo: Paul Kuroda / Special To The Chronicle

Amy Brownell, environmental engineer at the S.F. Department of Public Health and the city's go-to expert on the shipyard cleanup, speaks at a Bayview community meeting.

In those conversations, Brownell has painted a far more optimistic picture of the cleanup and development timeline than other agencies have, giving some assurances that later turned out to be incorrect, a Chronicle investigation has found. Brownell also repeatedly stressed positive arguments and failed to disclose negative information or public documents that pointed to serious problems, according to emails and interviews with the buyers.

By appearing to assist the developer in this way, legal and ethics experts said, Brownell may have crossed an ethical line, helping to carry out home sales that benefited both Lennar and the city. And because her career is so closely tied to the cleanup, she also had an incentive to protect her professional reputation by downplaying problems, the experts said.

"There's a conflict of interest here," said Deborah Sivas, professor of environmental law at Stanford and director of the university law school's Environmental Law Clinic.

Sivas has advised local governments in the Bay Area on how to handle hazardous cleanups. She said that even if Brownell didn't explicitly tell Lennar clients they should buy the homes, her upbeat take on the shipyard carried extra weight because of her position as the city's shipyard expert.

"It was highly inappropriate for her to be advocating one way or another," Sivas said, calling Brownell's involvement "extremely odd." "You're supposed to protect the health of the city's residents and, in fact, you're giving them assurances that maybe help them go through with the transaction."

It isn't necessarily wrong for Brownell to talk with home buyers, said Mary-Beth Moylan, an expert in government ethics and a professor at the McGeorge School of Law in Sacramento. In fact, it makes sense that a health official would discuss safety issues with members of the public.

The tricky part, she said, involves the communications between Brownell and Lennar.

"The question is whether there is an appearance of bias or influence by having someone working closely and in connection with an entity that she is also regulating," Moylan wrote in an email to The Chronicle. "It does seem that the City has placed itself in a position where the success of the development is contingent on the land being safe and so is incentivized to find that the clean-up is successful."

It's unclear how often Brownell has gotten involved in shipyard home transactions, but four cases are documented in emails obtained by The Chronicle. In three of these instances, including the Spencers', the exchanges occurred after the buyers had placed their deposits but before the sale agreements were

final — a limited and sensitive window of time. Facing tight deadlines, with little time to perform their own research, the three buyers say they relied on Brownell’s advice before completing their purchases in early 2018.

Asked about their exchanges with Brownell, the buyers said they found her helpful, and that they are happy with their homes.

“Anything I asked, she was very forthcoming,” said Spencer. “She didn’t give me any feeling that she was hedging, or there were things she didn’t want to talk about.”

Brownell declined to comment. In response to questions, health department spokeswoman Rachael Kagan sent a statement defending the department and Brownell.

“Her answers were factual, objective and contained public information,” Kagan said. “Brownell also provided additional resources, so that the inquirers could seek out more information from other sources. Providing public information and expertise is responsive, and we fail to see how that is improper.”

Lennar said it was merely keeping home buyers informed by referring them to Brownell. “There is nothing improper about this,” the company said in a statement.



A newly constructed housing development on Parcel A looks out onto the San Francisco skyline in the former Navy shipyard.

| Jessica Christian / The Chronicle

Brownell is one of the most influential people shaping the shipyard cleanup and redevelopment, having worked on the project since 1993, a period spanning six mayoral administrations. Admired in city circles for her diligent work ethic and her command of shipyard documents (a city consultant once deemed her “the master of document archives”), Brownell has helped achieve a number of project milestones.

For instance, she spent years helping to prepare the 2004 transfer of Parcel A to the city, a major step in San Francisco’s dream of transforming the toxic site — and nearby Candlestick Point — into a lucrative splay of 12,000 homes, more than 3 million square feet of office space and 300 acres of parks. Lennar is developing the first phase of the project, and its spinoff FivePoint Holdings is handling the second phase. About 750 housing units have been built so far.

Throughout her time on the project, Brownell has also developed a reputation for unwavering optimism in the face of apparent setbacks, making a series of confident, controversial claims in both internal discussions and open meetings.

Four years ago, she dismissed an important and troubling alarm about Tetra Tech’s work at the shipyard. The Navy had discovered “anomalies” in some of the company’s soil samples and asked Tetra Tech to investigate itself. In a resulting 2014 report, both parties chalked up the problem to mistakes by shipyard workers. Two former company supervisors have since confessed to fraud, admitting that they swapped dirty soil with clean soil; the Navy says their actions may cost taxpayers as much as \$570 million.

Yet Brownell appeared convinced in 2014 that the faulty soil samples were insignificant. On internal email threads obtained by The Chronicle, she wrote that the findings had “no implications for future” and were “just a documentation issue.” She even suggested that the effort to figure out what went wrong was a waste of money: “your tax dollars hard at work,” she wrote in one thread.

According to Kagan, Brownell assumed that the problems identified by the Navy had been fixed.

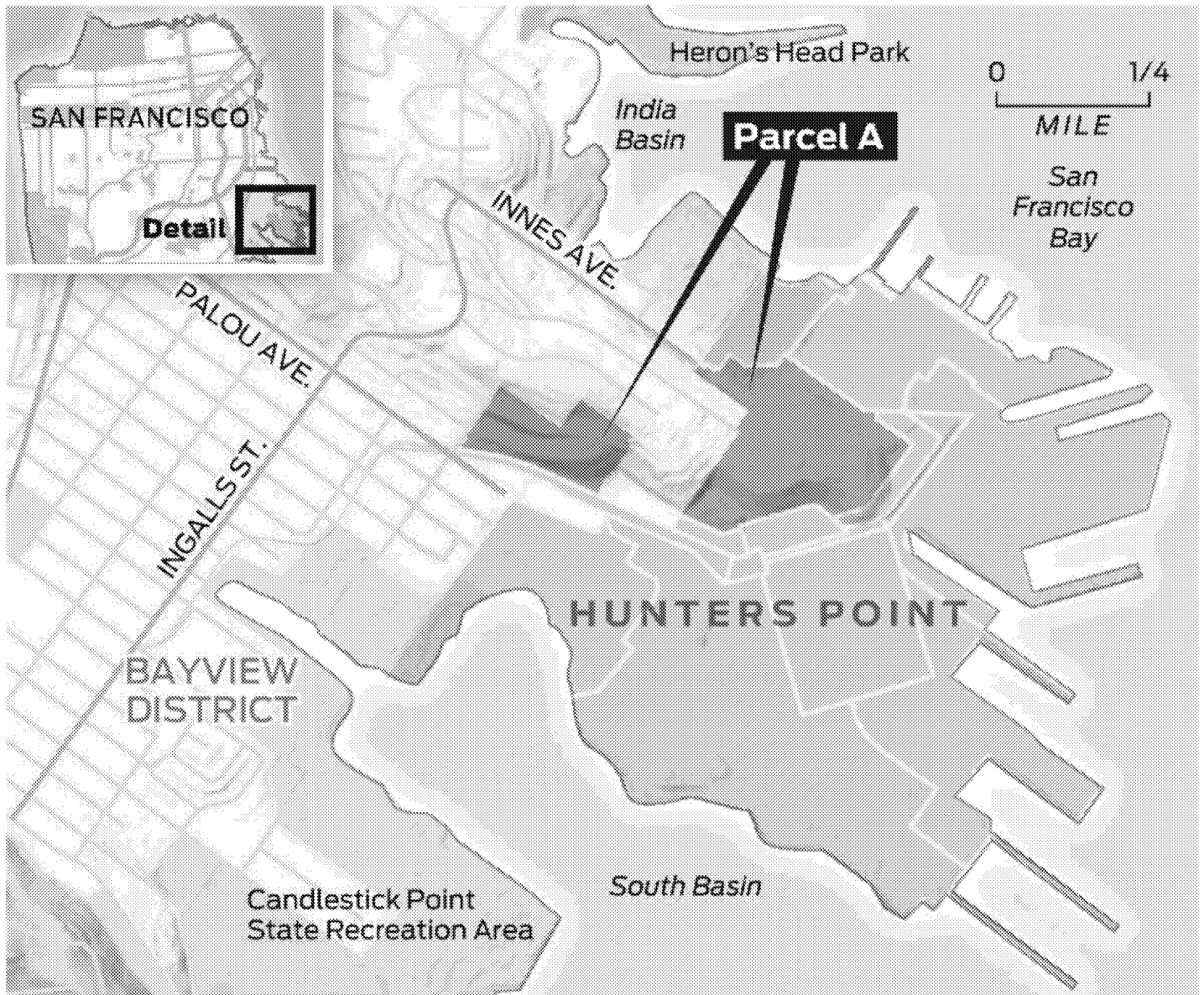
More recently, in May, Brownell attended a tour of the shipyard and claimed, without evidence, that the entire shipyard is already safe. The Navy and EPA don’t agree. Over the past year, both agencies have found widespread signs of likely fraud in Tetra Tech’s reports on radioactivity levels, meaning that the data can’t be trusted and so it is impossible to know how clean or how toxic the site really is. The Navy plans to retest much of the shipyard, and, according to the EPA, “We won’t know the true extent of contamination until new sampling results come back.”

But during the May tour, Brownell insisted, “The contamination has been cleaned up. We can say definitively there are no public safety concerns or health concerns out here.”

She had made the same unsupported claim a few weeks earlier at a Board of Supervisors committee hearing, saying that “the entire shipyard, Parcel A, Parcel G, Parcel E, name any alphabet soup” had been found to contain “nothing out of the ordinary.” At the hearing, Brownell also speculated about the cause of high rates of asthma and heart disease in the Bayview-Hunters Point neighborhood, which includes the shipyard and many industrial facilities. The community is one of the poorest in the city and suffers from air pollution, according to health department studies. But Brownell said that health issues there might be caused by the “stress” of learning about the cleanup problems.

This provoked a sharp response from Supervisor Jane Kim, who replied, “That’s an extraordinary statement.” Kim later questioned whether the health department was “colluding and collaborating” with Tetra Tech — a suggestion Brownell called “strange” in a subsequent email to her boss.

Yet she has drawn similar criticisms from environmental groups, community activists and a civil grand jury.



John Blanchard / The Chronicle

After Brownell claimed in May that the entire shipyard is already safe, a Washington-based nonprofit released an EPA report showing major unresolved problems on three small parcels that are owned by the city and border Parcel A. The report had been in Brownell's possession since March; the group obtained it through a Freedom of Information Act request and singled her out in a press release.

"This city official knew about these problems for months but did not share this information with the public she is supposed to serve," the group's executive director said of Brownell.

In 2011, Bayview activists called attention to Brownell's interactions with Lennar, the company originally chosen during Willie Brown's administration to develop the shipyard. Emails made public by a community group showed Brownell offering to let Lennar rewrite a document about asbestos hazards at the shipyard. The civil grand jury later cited those emails in questioning the health department's "commitment to proactively and impartially enforce environmental health regulations."

Then, in 2016 and 2017, Brownell and the city came under fire from environmental groups for taking part in a series of closed-door meetings with the shipyard's private developers.

Meetings of the so-called "Tiger Team" also included federal and state agencies and began in December 2016. Lennar placed items on the meeting agendas, and executives from FivePoint were invited to attend, including Kofi Bonner, who is now FivePoint's co-chief operating officer.

Each company had its own concern, according to internal Tiger Team communications. FivePoint was wary about the future; given the uncertainties around Tetra Tech's data, the Navy was postponing the transfer of land to the city, meaning that FivePoint would have to wait to build homes on those parcels.

Meanwhile, Lennar reported in February 2017 that Parcel A home sales were flagging and that "six buyers have cancelled their contracts to purchase homes at the Shipyard out of concern for their health and safety," according to an agenda of a team meeting.

Home buyers canceling contracts was clearly a problem for Lennar. But it also posed a crisis for the city if the project were to flounder or fail, potentially leading to expensive litigation with angry homeowners or the deep-pocketed developer.

City staff on the Tiger Team recommended "a proactive outreach by the Regulatory Agencies" to tell the public that Parcel A was safe.

The city health department didn't respond to questions about the civil grand jury report or the Tiger Team's "proactive outreach," though spokeswoman Kagan defended the department's impartiality. "We are not invested in any outcome except for the health and safety of San Franciscans," she said in a statement.

Lennar said in a statement that the company was not present at the Tiger Team meeting where Parcel A home sales were discussed. FivePoint did not respond to repeated requests for comment.



The view from the rooftop deck of Michael Spencer's condo on Parcel A at the former Hunters Point Naval Shipyard.

| Jessica Christian / The Chronicle

Spencer and the other home buyers who were directed to Brownell didn't know anything about her career or her disputed public statements. She was presented to them as a neutral voice of authority, and they saw no reason to doubt that.

Spencer moved to the Bay Area in April 2017, taking a job with an e-commerce company in Dogpatch. He and his wife rented a place in Redwood City while they looked for a home in San Francisco. Having spent the previous six years in Iowa, they were hardly prepared for the macabre spectacle of San Francisco open houses.

"You walk into a house and there's 100 people standing there," he said. "The listing is \$700,000. The real estate agent says we're not taking bids under \$1.2 million. It's like, what the hell are you talking about?"

Then, in January, the couple visited the shipyard and toured a \$900,000 fourth-floor condo with gorgeous city views from a private rooftop deck. They could see Berkeley, the Bay Bridge, even the tops of the Golden Gate Bridge towers. "We wanted a place to sit and drink wine," he said. Their

Lennar sales agent painted an appealing picture of the neighborhood's future: shuttle buses to downtown, water taxis to the harbor.

Another shipyard homeowner and her husband, who asked not to be identified, were also drawn to Lennar's vision of a new urban community, apart from downtown but still close and accessible. Bay Area residents for 16 years, they wanted a place where they could retire someday and where their two children would be comfortable. They made an offer on a \$660,000 Shipyard condo in the spring.

Around the same time, another husband and wife were scoping out a condo at the shipyard. The husband, who spoke with The Chronicle, asked to be identified only by his first name, Ron. He said he and his wife had been saving for years to buy a new home in the Bay Area; the shipyard was one of the few places they liked that they could afford. They loved the neighborhood on first sight — the water views, the sunlight — and put down a deposit on a \$900,000 condo in early April.

"I totally believe in the Bayview," Ron said. "I really want that to grow."

For all three families, buying a shipyard home was a financial leap, and when they heard about problems with the cleanup, they asked Lennar for more information. Lennar sent them to Brownell. In some cases, the company also provided contacts at other government agencies, including the Navy, and one buyer ended up speaking with a range of officials. But, according to all three families who interacted with her, Brownell was particularly responsive — and persuasive.

Spencer was the first to talk with her. He and his wife had put down their deposit and begun selling their furniture when Spencer saw a report about the radioactivity cleanup and potentially falsified soil tests. After Lennar gave him Brownell's email address, he wrote to her on the morning of Feb. 1, explaining that he and his wife were "very concerned about this community" and in a jam because they had already told their landlord they were leaving at the end of the month.

Forty-two minutes after Spencer sent his email to Brownell, she emailed Garrett Chan, the Lennar sales executive.

"Can I call you at 3pm today about this?" she asked Chan.

"Yes," he replied. "Please do!"

From: Michael Spencer
Sent: Thursday, February 01, 2018 11:16 AM
To: Kelly; Robert Forbes; Sallie Spencer; Steven Minchen; Garrett Chan (Lennar Sales Corp); Brownell, Amy (DPH)
Subject: Re: Questions and concerns regarding Hunters Point

Good morning Amy

Garret Chan from Lennar gave me your contact information. We are schedule to close on a home in the Shipyard community next Friday. However, in light of the news last night regarding alleged falsification of soil test results I am very concerned about this community.

I have already given notice to vacate our current apartment at the end of the month and as of last night we were actively selling a lot of our furniture and possessions to make the transition to this home easler, so I hope you understand the urgency of my concerns.

Could you please call me today? I would appreciate understanding your perspective.

Thank you

Michael Spencer

From: Brownell, Amy (DPH) [mailto:amy.brownell@sfdph.org]
Sent: Thursday, February 01, 2018 11:58 AM
To: Garrett Chan <Garrett.Chan@Lennar.com>
Subject: FW: Questions and concerns regarding Hunters Point

**** External email from: amy.brownell@sfdph.org. If suspicious, forward to: NotifySecurity@lennar.com ****

Can I call you at 3 pm today about this? I'll be calling from a 925 number

Michael Spencer was in the process of buying a shipyard condominium when he saw a news report about problems with the cleanup. He asked a Lennar sales executive, Garrett Chan, for information, and Chan sent him to Amy Brownell. On Feb. 1, 2018, Spencer emailed Brownell that he was worried about going through with his purchase. Shortly after, Brownell emailed Chan to set up a call about the situation.

| Source: San Francisco Department Of Public Health

Later that day or the next morning, Brownell called Spencer. She told him a couple of things, he recalled.

One, he didn't need to worry about the safety of Parcel A, the area where his new home stood. The Navy had never performed any radiation experiments on the hilltop, Brownell said. Therefore, no radioactive contamination could exist there.

This argument has been made by other agencies, too — and it has long been challenged by environmental groups and independent experts. They have pointed out that the Navy’s records of shipyard activity are riddled with gaps and that contamination on other parcels could have spread to Parcel A.

Within months, Brownell’s reasoning would prove wrong. In September, state workers scanning for hazards on Parcel A found a highly radioactive object buried there: an old Navy deck marker filled with radioluminescent paint. It probably hadn’t harmed residents, but its discovery undercut what Brownell and other officials had been saying; no one is sure how the object got there.

During their phone call, Spencer recalled, Brownell also promised that the city would stick to its development plans for the rest of the shipyard. In the worst case, there might be a delay of a year or two, she told him. She followed up by emailing Spencer links to a flyer and fact sheet explaining the Navy’s process for reviewing Tetra Tech’s data. There was a single page showing some partial results of the review.

But Brownell didn’t actually know how long the project might be delayed, and her guess of a year or two was on the low side. The EPA and Navy both said in 2016 that they didn’t know when the land would be cleaned up and transfers of other parcels would resume. The timeline depends on the results of new tests that haven’t been done yet. “The timing is difficult to predict,” the EPA wrote in January, just a week before Brownell’s call with Spencer.

A month later, in March, the Navy would estimate in a court filing that the development of the shipyard would be delayed “by an approximate decade” because of fraud by Tetra Tech.

After Spencer talked with Brownell, he and his wife decided they were comfortable signing the purchase papers. They had lived on military bases before, in close proximity to hazardous, controlled materials. Even if there was some kind of dodgy object buried in the ground, it wouldn’t matter, given their fourth-floor location.

“I am in no way discounting the (health) concerns that people have had for decades about Hunters Point and Bayview,” Spencer said. But when it came to the immediate area around his condo, he saw no risk.

“I’m 80 feet above 12 feet of concrete,” he said. “I’m not affected here.”

“I’m not of the bent that the sky is falling or the ground is glowing.”



Home construction continues on Parcel A, the hilltop plot at Hunters Point that is the first piece of the former Navy base to be developed by Lennar Homes.

| Jessica Christian / The Chronicle

Brownell, though, hadn't given Spencer the full story. Emails show that she cherry-picked documents about the shipyard cleanup, sending Spencer reports that were reassuring and leaving out those that were more critical.

The picture Brownell was getting in behind-the-scenes meetings was much more complicated and uncertain than the one she gave buyers. By early 2018, another group she was involved with — an interagency “technical team” of environmental regulators — had spent a year investigating and discussing likely fraud in the cleanup. And the more they looked, the more problems they found.

In October 2017, four months before Brownell spoke with Spencer, she and other officials received some shocking information from the EPA. The agency had analyzed data from two large swaths of shipyard land — Parcels B and G, totaling 80 acres — and found that the problem was bigger than the Navy had estimated. Almost all of the soil data showed signs of “potential purposeful falsification and fraud.” The EPA also revealed a slew of other failures that amounted to “general mismanagement” of the entire project. The state health department concurred.

In a city email thread about these findings, Brownell's reaction was succinct.

"!!!" she wrote.

But Brownell, who received the full EPA report on the two parcels in December 2017, did not share this information with Spencer, even though it was a public document.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA

December 27, 2017

In Parcel B, the Navy recommended resampling in 15% of soil survey units in trenches, fill, and building sites. EPA, DTSC, and CDPH found signs of potential falsification, data manipulation, and/or data quality concerns that call into question the reliability of soil data in an additional 76% of survey units, bringing to 90% the total suspect soil survey units in Parcel B. (These do not add exactly due to rounding) In Parcel G, the Navy recommended resampling 49% of survey units, and regulatory agencies recommended 49% more, for a total of 97% of survey units as suspect.

Sincerely,

John Chesnutt
Manager, Pacific Islands and Federal Facilities Section
Superfund Division

Attachments

cc: Julie Pettijohn, DTSC
Sheetal Singh, CDPH
Alec Naugle, California Regional Water Quality Control Board
Amy Brownell, San Francisco Department of Public Health

From: Brownell, Amy (DPH) [mailto:Amy.Brownell@sfdph.org]
Sent: Monday, October 30, 2017 10:31 AM
To: Christina Rain (crain@Langan.com); Dorinda Shipman (dshipman@Langan.com); Daniel Hansen (Daniel.Hansen@fivepoint.com); Jeff Martin (Jeffrey.Martin@fivepoint.com); Mark Luckhardt (Mark.Luckhardt@fivepoint.com); Sullivan, Charles (CAT); Warren, Elaine (CAT); Drew, Tamsen (ADM); Barreno, Colin; Hart, Gordon E.; Jessica Ramirez (JRamirez@Geosyntec.com); randy brandt (rbrandt@geosyntec.com)
Subject: [EXT] FW: EPA interim draft review of Parcel B Trench Units in draft Radiological Data Evaluation Findings Report

!!!

sincerely,
Amy Brownell, P.E.
Environmental Engineer

In 2017, Amy Brownell received a shocking EPA report showing that fraud or failures in the shipyard cleanup were much worse than the Navy had disclosed. Brownell did not share the document with potential home buyers.

| Sources: San Francisco Department Of Public Health And The EPA

She also failed to share other information that could have been relevant to a home buyer like Spencer. By this point, a whistle-blower had told federal regulators about an unexpected finding of radioactive contamination on Parcel A — an allegation that Tetra Tech has said is a lie. The former shipyard worker said he collected a soil sample from the parcel's border that contained a dangerous level of cesium-137. His claim was detailed in public documents filed in June 2017 with the Nuclear Regulatory Commission. Records show that the Mayor's Office and other city departments were notified of the filings by August 2017.

Two experts suggested that Brownell was legally and ethically required to give home buyers all relevant documents.

"I don't think there's a problem with this city official assuring potential home buyers," said attorney Brian Hildreth, a partner with Bell, McAndrews & Hiltachk, a political and election law firm in Sacramento. "It's a good thing to be responsive. Had she turned over all the information, and somebody got to make an informed choice, I don't see a problem with that part of it."

The problem, he said, is that by asking Brownell for information about the safety of Parcel A, Spencer and other buyers were making what amounted to a public records request, even if they weren't using the language of the state records law. And officials like Brownell can't just "pick information they share and don't share" in response to such a request. Brownell's actions, Hildreth said, raise the question of whether she was trying to "camouflage or hide" negative information.

Brownell had an obligation to be aware of her own potential biases "and kind of step back," said Brian Berkey, assistant professor of legal studies and business ethics at the Wharton School and a Berggruen Fellow at Harvard's Center for Ethics.

"If it's acceptable for her to be engaging with these home buyers at all, it seems like her role should be as a kind of neutral provider of all the information that might be relevant to their decisions," Berkey said.

That's why the home buyers wanted to speak with Brownell in the first place: They all needed as much information as they could get about Parcel A and the shipyard, and as fast as possible.

The buyer who was looking forward to retirement at the shipyard said Lennar gave her Brownell's contact information and encouraged her to reach out.

“Do you have any documentation or any evidence that Parcel A is not part of False test and Soil is clean?” the buyer emailed Brownell on March 24. “I have three days to research before entering into contract.”

From: Brownell, Amy (DPH) <amy.brownell@sfdph.org>
Sent: Monday, March 26, 2018 3:15 PM

Lennar is correct, there aren't any issues with the new homes – they are in an area that does not have any issues

In addition, the Navy owned areas aren't a health and safety hazard – they just have to redo some sampling

In March 2018, a worried potential homebuyer emailed Brownell asking for proof that Parcel A is clean. Brownell said there were no issues in the home area and downplayed the impact of the faulty soil samples fraud scandal, claiming without evidence that the rest of the shipyard is safe.

| Source: San Francisco Department Of Public Health

Not long after that, Ron was connected with Brownell by his sales agent, Forbes. “I was hoping you might have a discussion with them about the project and clean-up,” Forbes wrote to Brownell, copying Ron and his wife by way of introduction. “As always, I appreciate your assistance and time.”

Ron and the other home buyer ended up speaking with Brownell on the phone, they said. She repeated many of the same arguments she had told Spencer, telling the buyers that Parcel A was definitely free of radioactive contamination and that “the Navy owned areas aren't a health and safety hazard — they just have to redo some sampling,” Brownell wrote in an email to the other buyer.

Brownell also made new claims. During an extended phone call with Ron that he said lasted about two hours, Brownell asserted that the air quality at the shipyard is the same as in the Financial District or any other city neighborhood. Bayview-Hunters Point is exposed to the highest concentration of airborne pollutants in the region, according to figures published by Brownell's own department, and the community “has the highest rate of air pollution related health problems in San Francisco,” the office of the city attorney has written.

After the call, Ron's wife sent a follow-up email to Brownell, wanting to see proof that the soil on Parcel A was tested for radioactivity in the past. In fact, to this day, the soil has never been tested there like it has been in other parts of the shipyard, by taking soil samples and analyzing them with sensitive lab equipment. Instead, authorities have performed cruder sorts of scans with machines that are held above the ground. And Brownell replied to the buyer's email with information about two such surveys, both dubious.

One was a 2002 test by an EPA “scanner van,” a large truck with a radiation scanner attached that could detect only one type of radiation and couldn’t access much of the parcel. The other test was a 2012 aerial survey by the Department of Homeland Security, which involved flying a helicopter 300 feet above the shipyard. The equipment on the helicopter was designed for a very different purpose — locating nuclear devices assembled by terrorists.

The buyers had no way of knowing they were getting inaccurate and incomplete information from Brownell. The city’s expert on health and safety at the shipyard appeared to be telling them not to worry.

“She was knowledgeable,” Ron remembers. “It was like we had an interview.” As part of his research, he also spoke to artists who worked in shipyard studios, cleanup workers, and two Navy officials. He and his wife closed on their \$900,000 condo in late April.



Homeowner Michael Spencer explains the layout of his building on Parcel A at the shipyard development in San Francisco.

| Jessica Christian / The Chronicle

Even as the shipyard home buyers have settled into their new condos, the situation around them has grown murkier.

At least 20 homeowners on Parcel A, some of them couples, have sued Lennar/FivePoint and Tetra Tech over the drop in value of their homes, alleging that the companies failed to disclose facts about contamination. One of the plaintiffs, Fei Liu, bought a shipyard condo in February after Lennar assured him there were no health issues, he said. “After I move in, a few months later, they tell me there is potentially a problem,” Liu said. He then tried to sell the condo, but “nobody wanted to buy it. Essentially I’m stuck.” Lennar/Five Point and Tetra Tech have denied the allegations in the lawsuits.

The state completed a limited radiation scan of the parcel in October and did not find anything beyond the deck marker. Environmental groups, though, say the scan was inadequate and can’t be used to declare the parcel safe — only soil sampling can.

Beyond the home area, the situation is even more fluid. The Navy has laid out its plan to retest the shipyard, but the EPA and other agencies have said the Navy is trying to cut corners. Regulators probably will be wrestling over the details into next year, and, until new tests are complete, the shipyard will remain in a state of limbo. Meanwhile, an independent watchdog group has released a series of reports charging that the whole cleanup effort is flawed at the core.

The uncertainty is making it difficult to attract home buyers and investors, FivePoint executive Bonner said in an interview with The Chronicle’s editorial board this summer. If problems continue, he said, FivePoint could cancel its plans to build homes on the Navy-owned parcels.

“I might as well ... say, ‘You know what, city, why don’t you keep that and I’ll just focus on my 7,500 homes over here’ at Candlestick Point, a location that is easier to develop because it’s not a Superfund site.

The three shipyard homeowners interviewed by The Chronicle all said they are glad they moved to the neighborhood. “Waking up in the morning, it’s sunny, and it’s super-nice,” Ron said. “This is going to be long-term. Really, my main goal — I really just want a community.” Still, he worries that if more problems are found in the short term, the community will suffer.

“My coworkers ask me where I bought a condo, and I kind of don’t want to tell them,” he said.

Spencer said the shipyard is what he hoped it would be. The neighbors are cool. The light is lovely. It’s close to work.

“I have a 3-mile commute that takes me eight minutes,” he said.

He understands the health concerns of other residents but thinks they’re being unreasonable.

When presented with the newspaper's findings that Brownell didn't share all she knew, Spencer said he wasn't sure if the information would have changed his decision to buy at the shipyard.

"Hindsight is always 20/20 and it's usually best not to beat ourselves up with would'a, could'a, should'a," he wrote in an email. "What I am comfortable in saying is had I known about some of this 10 1/2 months ago, it may have given me pause" — especially information about development delays.

"As for the deck marker," he continued, "I think it is a non-issue and with my military background and experience, is blown way out of proportion, but again I am from the generation that had a children's chemistry set as a Christmas Gift."

He said he has faith that any problems will get worked out. The land is too valuable for the project not to succeed. The city has to finish it and finish it right.

"Jesus tapdancing Christ, guys," he said. "The stuff can be cleaned up. It's some pretty nice property. It's got wonderful views and all that. The city's going to want it."

He added, "It's gonna get fixed. And we're OK."

Jason Fagone and Cynthia Dizikes are San Francisco Chronicle staff writers. Email: jason.fagone@sfgchronicle.com, cdizikes@sfgchronicle.com Twitter: [@jfagone](https://twitter.com/jfagone), [@cdizikes](https://twitter.com/cdizikes)

-

Sent from my iPhone